

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Angela Tizon	Team: Team # 7	CCRB Case #: 200411617	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 11/12/2004 3:30 AM	Location of Incident: in front of § 87(2)(b)	Precinct: 79	18 Mo. SOL 5/12/2006	EO SOL 5/12/2006	
Date/Time CV Reported Tue, 11/23/2004 9:56 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Tue, 11/23/2004 9:56 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POF Yvette Clay	06536	928084	079 PCT
2. POM Keith Chatterton	07323	925067	079 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Robert Holt	05058	913435	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Yvette Clay	Abuse: PO Yvette Clay stopped the car in which § 87(2)(b) was an occupant.	§ 87(2)(b)
B.POM Keith Chatterton	Abuse: PO Keith Chatterton stopped the car in which § 87(2)(b) was an occupant.	§ 87(2)(b)

Synopsis

On November 12, 2004 at 3:30 am, § 87(2)(b) was pulled over on the corner of Jefferson and Tompkins Avenues in Brooklyn by officers Keith Chatterton and Yvette Clay of the 79th Precinct. § 87(2)(b) alleges that the officers stopped her without reason.

§ 87(2)(b) accepted mediation, but because of PO Chatterton's several pending allegations at the time, the case was not eligible. § 87(2)(g)

Summary of Complaint

§ 87(2)(b) filed this complaint at the CCRB on November 23, 2004. She was interviewed at the CCRB on December 27th.

On November 12, 2004 at 3:30 am, § 87(2)(b) was pulled over in front of § 87(2)(b) in Brooklyn by PO Chatterton and PO Clay, whom she identified from their nameplates. § 87(2)(b) was driving a rental vehicle at the time and was riding with her two friends § 87(2)(b) and § 87(2)(b). She was stuck behind a police vehicle that was going down Tompkins Avenue at 10 mph. She looked at her speedometer which read "14 mph," and commented to her friends on how slow the police car was going. After a couple of blocks the police vehicle pulled over and she went passed them. The police car pulled behind her and followed her for six blocks until she turned left onto Jefferson Avenue. The officers then put on their lights and she pulled over.

PO Chatterton approached on the driver side of the car, and PO Clay went to the passenger side. PO Chatterton asked § 87(2)(b) for her license and registration and she asked why she was pulled over. PO Chatterton told her she was speeding, and § 87(2)(b) argued that she was going 14 mph. She admitted telling him this with an "attitude" because she was upset that she was stopped unjustly. She told PO Chatterton that she did not have the rental agreement for the vehicle and he took her license back to the patrol car to run it. PO Chatterton then came back with the license and told § 87(2)(b) that he had reason to believe that she had been smoking marijuana. She asked him why, but he stated that she had to take the test. § 87(2)(b) responded, "what is this, driving while black?" He looked at her and told her to step out of the vehicle.

PO Chatterton asked § 87(2)(b) to look up at the sky and he shone a flashlight in her eyes. He told her she was "OK" and that was the end of the test. § 87(2)(b) left to go home since she was in front of her house, and § 87(2)(b) called her friend for the rental agreement. They waited for the rental papers to come and PO Chatterton wrote out two summonses. A sergeant, later identified by the investigation as Sgt. Holt, came to the scene and spoke with the officers. He then left, and PO Chatterton issued § 87(2)(b) summonses for tailgating and for following too closely behind an emergency vehicle (under 200 feet). She believes that she was stopped for no reason, and believes that she should have been issued a summons for speeding if that was the reason she was pulled over as PO Chatterton stated to her. § 87(2)(b) stated in her interview that she was not drinking or smoking marijuana and PO Chatterton had no reason to suspect this. She believes she was questioned about marijuana use because she is black and has dreadlocks. § 87(2)(g)

Results of Investigation

Civilian Interviews

No witnesses were interviewed in connection with this investigation. The occupants of the vehicle, § 87(2)(b) and § 87(2)(b) would not participate after several attempts to schedule them to come in for an interview.

Officer Identification

PO Chatterton and PO Clay were identified by § 87(2)(b) from their nameplates, as well as by the Roll Call. Sgt. Holt was identified by both officers and by Roll Call. All three officers acknowledge being on the scene.

Officer Interviews

PO Chatterton was interviewed at the CCRB on April 19, 2005. PO Clay was interviewed on May 10th and Sgt. Holt was interviewed on June 13th. Any discrepancies in their statements are noted below.

PO Chatterton had no memobook entries regarding the incident. PO Clay recorded in her memobook that she made a car stop on the corner of Tompkins and Jefferson Avenues at 3:40 am. Sgt. Holt had no memobook entries regarding the incident.

On November 12, 2004 at 3:30 am, PO Chatterton and PO Clay pulled over § 87(2)(b) on the corner of Jefferson and Tompkins Avenues in Brooklyn. Both officers stated that they were traveling back to the stationhouse South-bound on Tompkins Avenue when they noticed a Ford Explorer tailgating them for a couple of blocks. PO Chatterton, who was driving, pulled over and stated that § 87(2)(b) proceeded past him at a high rate of speed. PO Chatterton assumed there was either an emergency or the driver was intoxicated. PO Clay stated that § 87(2)(b) almost hit their vehicle from behind, and that when they pulled over, the vehicle swerved passed them and was swerving in between lanes in front of them. Both officers state that they put on their lights and siren immediately and pursued the vehicle.

§ 87(2)(b) pulled over approximately 5-6 blocks down the road in front of § 87(2)(b). Both officers got out of the car and approached the vehicle in which there were three occupants. PO Clay walked to the passenger side while PO Chatterton asked § 87(2)(b) who was driving, for her license and registration. Both officers stated that they explained to her that she was being stopped for tailgating them. Both officers also state that when they approached the vehicle they smelled alcohol. PO Chatterton asked § 87(2)(b) if she had been drinking, and she stated that she had been earlier in the night.

According to PO Chatterton, he asked § 87(2)(b) to step out of the car to conduct a “field sobriety test,” during which he asked her to tilt her head back and touch her nose to determine her level of coordination. She passed this test and went back inside the vehicle. PO Chatterton stated that he is also certified in portable Breathalyzer testing, but it was broken at the time, so he did the field test. According to PO Clay, no such test was conducted because § 87(2)(b) “did not appear to be under the influence” despite the scent of alcohol. § 87(2)(b) got out of the vehicle only to use the restroom inside her friend’s residence, which they were in front of.

Both PO Chatterton and PO Clay denied ever suspecting marijuana use, and stated that they did not smell any or question § 87(2)(b) about it. Sgt. Holt did not see § 87(2)(b) undergo any tests while he was on the scene, but stated that he did not smell marijuana or hear anything about it. He stated that there is no test for marijuana other than smelling it, so she would not have undergone a test for this.

§ 87(2)(b) did not have the rental agreement for the vehicle she was driving, and they waited for a friend to arrive with the papers. Sgt. Holt responded to the scene to answer questions the officers had. Sgt. Holt stated that they asked whether they had to arrest § 87(2)(b) for unauthorized driving of the vehicle, and what they had to do with the vehicle. Sgt. Holt told the officers that it was not worth it to arrest her for unauthorized driving, but that they needed to take the vehicle and call the rental company if they did not produce the rental agreement.

Police Documents

The Tour 1 Roll Call from the 79th Precinct reflects that Sgt. Holt was working as a supervisor at the time of the incident. It also reflects that PO Chatterton and PO Clay were partners. The summonses were not

provided after an initial request to IAB. After a follow-up call with IAB, the investigator spoke with a sergeant who explained that there would be no personal notes written on the summonses issued to § 87(2)(b) because they were not “C” summonses. Only on criminal summonses do officers write additional notes. § 87(2)(g)

Complainant’s Criminal Conviction History

§ 87(2)(b)) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Subject Officers’ CCRB History

Neither PO Chatterton nor PO Clay have prior substantiated CCRB complaints. PO Chatterton has been on the force for 5 years, and PO Clay has been on the force for 3 years.

Conclusions and Recommendations

Undisputed Facts

It is not in dispute that § 87(2)(b) was stopped by PO Chatterton and PO Clay and issued two summonses for tailgating and for following too close to an emergency vehicle. It is not in dispute that Sgt. Holt responded to the scene.

Disputed Facts

§ 87(2)(g)

Credibility Assessment

§ 87(2)(g)

§ 87(2)(g)

Determination of Fact

§ 87(2)(g)

Allegation A: Abuse of Authority- PO Keith Chatterton stopped the vehicle in which § 87(2)(b) **was an occupant**

Allegation B: Abuse of Authority- PO Yvette Clay stopped the vehicle in which § 87(2)(b) **was an occupant**

According to Vehicle and Traffic Law violation 1129 *Following too closely*, “The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable or prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.” § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: